



**Federal Communications Commission  
Washington, D.C. 20554**

November 27, 2002

**DA 02-3225**

Forest Industries Telecommunications  
David Smith, Frequency Coordinator  
871 Country Club Road, Suite A  
Eugene, Oregon 97401-2200

RE: FIT Frequency Coordination Recommendation for Section  
90.187 for Sunshine Communications Corporation's Trunked  
Station WPNQ622, Philadelphia, PA.

Dear Mr. Smith:

This letter concerns the frequency coordination performed by the Forest Industries Telecommunications (FIT) in connection with Sunshine Communications Corporation's (Sunshine) application for radio facilities in the Industrial/Business Radio Pool, FAC # PA8EE00476. By this letter, we confirm that Sunshine can resolve the complaints against its operation by modifying license for Station WPNQ622, Philadelphia, Pennsylvania, to specify "non-FB8" operations on frequencies 151.5275 MHz and 158.3775 MHz.

In a letter dated August 7, 2002, the Public Safety and Private Wireless Division (Division)<sup>1</sup> requested that the FIT propose a solution to the petitions filed by Pottstown Trap Rock Quarries, Inc.<sup>2</sup> (Pottstown), Haines & Kibblehouse, Inc.<sup>3</sup> (Haines & Kibblehouse) and William A. Simpler, Jr. (Simpler).<sup>4</sup> The petitioners request revocation of Sunshine's license for Station WPNQ622 because they claim that Sunshine's license was incorrectly coordinated. Specifically, Pottstown, Haines & Kibblehouse and Simpler all indicate that their stations are directly affected by the grant of a license for Sunshine's centralized trunked "FB8" Station WPNQ622. The frequencies and stations affected are as follows:

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<sup>1</sup> Letter from D'wana R. Terry, Chief, Public Safety Private Wireless Division, to FIT dated August 7, 2002 (Division Letter).

<sup>2</sup> Letter from Russell A. Mumaw, Communications Supervisor, Pottstown Trap Rock Quarries, Inc., to Secretary, Federal Communications Commission filed Aug. 31, 2000 (Pottstown Petition).

<sup>3</sup> Letters from Russell A. Mumaw, Communications Supervisor of Haines and Kibblehouse, Inc., Bechtelsville Asphalt, a division of Haines and Kibblehouse, and Silver Hill Quarry a division of Haines and Kibblehouse to Secretary, Federal Communications Commission all filed Aug. 31, 2000. We will refer to these letters collectively as the Haines and Kibblehouse Petition.

<sup>4</sup> Letter from William A. Simpler, Jr., to Secretary, Federal Communications Commission filed Sep. 21, 2000 (Simpler Petition).

<u>Station Affected</u>	<u>Affected Frequency</u>	<u>Sunshine FB8 Frequency<sup>5</sup></u>
Pottstown (Station KXJ427)	158.3850 MHz	158.3775 MHz
Haines & Kibblehouse (Station KCJ468) <sup>6</sup>	151.5200 MHz	151.5275 MHz
Simpler (Station WSP232)	152.8850 MHz	152.8775 MHz

The petitioners indicate that because they are affected licensees, Sunshine's application should not have been granted without their consent. The petitions were treated as informal requests for Commission action.<sup>7</sup>

In the August 7, 2002 letter, the Division concluded that Pottstown, Haines & Kibblehouse and Simpler are affected licensees and that their consent should have been obtained before the FIT recommended "FB8" operation for Sunshine on the pertinent frequencies.<sup>8</sup> Consequently, the Division determined that the FIT's coordination was deficient and that FIT should propose modifications to Sunshine's license. We then asked Sunshine to inform us whether it is willing to file applications to modify its license in accordance with FIT's recommendation.<sup>9</sup>

In response to the Division Letter, the FIT contends that its coordination was properly performed considering the time period in which it was done.<sup>10</sup> The FIT notes that the trunking rules, *i.e.*, Section 90.187 of the Commission's Rules, have changed dramatically since the time it submitted Sunshine's application on November 20, 1998.<sup>11</sup> However, the Division's engineers have studied Sunshine's application and determined that Pottstown, Haines & Kibblehouse and Simpler were affected licensees under the rules in effect when the application was filed.<sup>12</sup> In this connection, we note that the FIT states that it performed its study using a 19.5 dB d-rate factor that was generally accepted at the time of the

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<sup>5</sup> An "FB8" station class code indicates a centrally trunked operation.

<sup>6</sup> In its petition, Haines & Kibblehouse incorrectly identifies Sunshine's interfering FB8 frequency as 158.3775 MHz rather than 151.5275 MHz.

<sup>7</sup> Division Letter at 2 citing 47 C.F.R. § 1.41.

<sup>8</sup> Division Letter at 2.

<sup>9</sup> *Id.* at 3 citing 47 U.S.C. § 316(a).

<sup>10</sup> Letter from David Smith, Frequency Coordinator, FIT, to Tracy Simmons Deputy Chief of the Licensing and Technical Analysis Branch, Public Safety and Private Wireless Division dated August 29, 2002 (FIT Letter).

<sup>11</sup> *Id.* at 1 citing the FIT letter dated June 11, 2001.

<sup>12</sup> On the date Sunshine's application was submitted, Section 90.187(b)(2)(ii) required licensees to obtain consent from affected licensees unless an applicant could demonstrate that the service area of the trunked system did not overlap any existing stations whose service areas overlap a circle with radius 113 km (70 miles) from the proposed base station. 47 C.F.R. § Section 90.187(b)(2)(ii) (1998). Division staff engineers studied the 37 dBu F(50,50) service contours for: (1) Sunshine's proposed base station; (2) Pottstown's two base stations and mobile units; (3) Haines & Kibblehouse's four base stations and mobile units; and, (4) Simpler's mobile units. Mobile units were studied at the edge of the area of operation. They have determined that Sunshine's service contour (37 dBu F(50,50)) overlaps the service contour of all base stations and mobile units studied.

subject coordination.<sup>13</sup> However, even when plotting Sunshine's service contour using a 19.5 dB d-rating factor (56.5 dB F(50,50)), Division staff engineers still find overlap to two of Haines and Kibblehouse's base stations as well as overlap to the authorized mobile units of Haines and Kibblehouse and Simpler.<sup>14</sup> The FIT states that the majority of the engineering data used to facilitate the coordination of Sunshine's application has been purged.<sup>15</sup> Therefore, without access to these studies, the staff engineers can make no determination regarding the validity of any adjustment factors FIT used when performing its study.

In any event, the FIT addresses each of the petitioner's issues in its August 29, 2002 letter.<sup>16</sup> In regard to Simpler's complaint, the FIT provides a letter from Simpler rescinding its request for revocation.<sup>17</sup> In its letter dated August 21, 2002, Simpler indicates that upon monitoring its frequency of operation, 152.8850 MHz, it has determined that its operations are not adversely affected by Sunshine's operation of Station WPNQ622.<sup>18</sup> Therefore, Simpler provides consent for Sunshine to continue operating in the "FB8" mode on frequency 152.8775 MHz. Consequently, we conclude that no further action is needed with regard to the Simpler Petition.

In regard to the Pottstown and Haines & Kibblehouse petitions, the FIT recommends that Sunshine modify its operation on frequencies 151.5275 MHz and 158.3775 MHz to specify "non-FB8" status. Under "non-FB8" status, Sunshine would be required to employ monitoring equipment that would prevent Station WPNQ622 from transmitting on frequencies 151.5275 MHz and 158.3775 MHz if a signal from another system is present on these frequencies. The level of monitoring would have to be sufficient to avoid causing harmful interference to other systems.<sup>19</sup> Once "non-FB8" status is afforded, Sunshine would no longer be required to obtain consent from either Pottstown or Haines & Kibblehouse for operations on 151.5275 MHz and 158.3775 MHz. Therefore, modifying the license for Station WPNQ622 to specify "non-FB8" operation on frequencies 151.5275 MHz and 158.3775 MHz would resolve the substance of the Pottstown and Haines & Kibblehouse petitions. Consequently, we request that Sunshine state whether it is willing to file an application to modify its license to conform to the FIT's proposal.

Finally, the FIT requests clarification on how to account for mobile units when performing studies to determine "affected" licensees under Section 90.187.<sup>20</sup> Section 90.187(b)(2)(i) indicates that an affected licensee can be either "base or mobile."<sup>21</sup> Whether a mobile licensee is an "affected" licensee depends on the specific system parameters. In this particular case, since the mobile area of operations of

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<sup>13</sup> The FIT states that it employed a d-rate factor of 19.5 dB to determine interference to an adjacent channel. *See* Letters from David Smith, Frequency Coordinator, FIT, to Tracy Simmons Deputy Chief of the Licensing and Technical Analysis Branch, Public Safety and Private Wireless Division dated March 13, 2001 and June 7, 2001.

<sup>14</sup> As noted, mobile units were studied at the edge of their area of operation.

<sup>15</sup> FIT Letter at 1-2.

<sup>16</sup> FIT Letter at 2.

<sup>17</sup> Letter from William A Simpler, Jr., to D'wana Terry, Chief of the Public Safety and Private Wireless Division dated August 21, 2002 (attached to FIT Letter).

<sup>18</sup> In its letter, Simpler inadvertently refers to its frequency as 151.8850 MHz rather than 152.8850 MHz.

<sup>19</sup> 47 C.F.R. § 90.187(b).

<sup>20</sup> *See* FIT Letter at 2.

<sup>21</sup> 47 C.F.R. § 90.187(b)(2)(i).

Station WSP232 overlaps the base station of the proposed trunked facility, and the mobiles may directly communicate with each other, the licensee of Station WSP232 would be considered an "affected" licensee for the purposes of Section 90.187.

If you have questions regarding this matter, you may contact Tracy Simmons, Deputy Chief of the Division's Licensing and Technical Analysis Branch at (717) 338-2657, or Brian Marengo of the Division's Policy and Rules Branch at (202) 418-0838.

Accordingly, IT IS ORDERED, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.41 of the Commission's Rules, 47 C.F.R. § 1.41, the Simpler Petition requesting revocation of Sunshine's license Station WPNQ622, filed on September 8, 2000 IS DISMISSED AS MOOT.

IT IS FURTHER ORDERED that Sunshine Communications shall state whether it is willing to file an application to modify its license for Station WPNQ622, Philadelphia, PA., to conform to the FIT's proposal within fifteen days of this letter. If Sunshine is willing to so modify Station SPNQ622's license, such application should be submitted within thirty days of the date of this letter.

This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

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Wireless Telecommunications Bureau

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